

UCI v 6 2006

USSN: 10/656,093
Atty. Docket No. 256/152 US D1**REMARKS**

With this response, claims 1-34 are pending. Claim 8 has been amended without prejudice to correct a typographical error. No new matter has been added by way of the present amendment. Claims 14-19 were withdrawn by the Examiner as being directed to non-elected subject matter.¹ Claim 1 was stated as a generic claim by the Examiner in the Office Action mailed on March 21, 2006, and since no proper rejection has been made, Applicants request consideration of all claims directed to the additional species.

Double Patenting Rejection

Claims 1-13, 20-22 & 24-34 stand rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 36-42 of U.S. Patent No. 6,703,359. By way of the amendment filed on July 16, 2003, claims 72-78 were cancelled in U.S. Application No. 09/622,105 (these same claims issued as claims 36-42 of U.S. Patent No. 6,703,359). In addition, a Certificate of Correction signed on August 31, 2004 deleted column 78, line 61 through column 80 of U.S. Patent No. 6,703,359 (issued claims 36-42). As such, Applicants request withdrawal of the rejection.

¹ Applicants wish to draw the Examiner's attention to claim 34 which was listed as a claim corresponding to the elected species. See Response to Election of Species Requirement Pursuant to 35 U.S.C. §121 submitted on April 21, 2006 at page 1. Claim 34 does not recite GLP-1 and instead recites exendin or exendin agonist.

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CONCLUSION

In view of the above, each of the presently pending claims is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims, and to pass this application to issue. The Examiner is encouraged to contact the undersigned should any additional information be necessary for allowance.

It is not believed that extensions of time or fees for net addition of claims are required beyond those that are otherwise provided for in the documents accompanying this paper. However, if any additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Applicant's Deposit Account No. 010535. Applicants likewise authorize a charge to Deposit Account Number 010535 for any other fees related to the present application that are not otherwise provided for in the accompanying documents.

Respectfully submitted,
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Dated: 6-Oct-06

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